

Calendar No. 407

104<sup>TH</sup> CONGRESS  
2<sup>D</sup> Session

**S. 1605**

[Report No. 104-273]

**A BILL**

To amend the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve more effectively, and for other purposes.

May 15, 1996

Reported with an amendment

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## IN THE SENATE OF THE UNITED STATES

MARCH 12, 1996

Mr. MURKOWSKI (by request) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

MAY 15, 1996

Reported by Mr. MURKOWSKI, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

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**A BILL**

To amend the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve more effectively, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That this Act may be cited as the “Energy Policy and  
4       Conservation Act Amendment Act”.

1        SEC. 2. Section 2 of the Energy Policy and Conserva-  
2        tion Act (42 U.S.C. 6201) is amended—

3                (1) in paragraph (1) by striking “standby” and  
4                “, subject to congressional review, to impose ration-  
5                ing, to reduce demand for energy through the imple-  
6                mentation of energy conservation plans, and”; and

7                (2) by striking paragraphs (3) and (6).

8        SEC. 3. Title I of the Energy Policy and Conservation  
9        Act (42 U.S.C. 6211–6251) is amended—

10                (a) by striking section 102 (42 U.S.C. 6211);

11                (b) in section 105 (42 U.S.C. 6213)—

12                        (1) by amending subsection (a) to read as  
13                        follows—

14                “(a) The Secretary of the Interior shall prohibit the  
15        bidding for any right to develop crude oil, natural gas,  
16        and natural gas liquids on any lands located on the Outer  
17        Continental Shelf by any person if more than one major  
18        oil company, more than one affiliate of a major oil com-  
19        pany, or a major oil company and any affiliate of a major  
20        oil company, has or have a significant ownership interest  
21        in that person, when the Secretary determines prior to any  
22        lease sale that this bidding would adversely affect competi-  
23        tion or the receipt of fair market value”; and

24                        (2) by striking subsections (c) and (e);

25                        (c) by striking section 106 (42 U.S.C. 6214);

1           (d) in section 151 (42 U.S.C. 6231)—

2                   (1) in subsection (a) by striking “limited”  
3           and “short-term”; and

4                   (2) by amending subsection (b) to read as  
5           follows:

6           “(b) It is the policy of the United States to provide  
7   for the creation of a Strategic Petroleum Reserve for the  
8   storage of up to 1 billion barrels of petroleum products  
9   to reduce the impact of disruptions in supplies of petro-  
10   leum products or to carry out obligations of the United  
11   States under the international energy program.”;

12           (e) in section 152 (42 U.S.C. 6232)—

13                   (1) by striking paragraphs (1) and (7);  
14           and

15                   (2) in paragraph (11) by striking “, the  
16   Early Storage Reserve, and the Regional Petro-  
17   leum Reserve”, and by adding a period after In-  
18   dustrial Petroleum Reserve.

19           (f) by striking section 153 (42 U.S.C. 6233);

20           (g) in section 154 (42 U.S.C. 6234)—

21                   (1) by amending subsection (a) to read as  
22           follows:

23           “(a) A Strategic Petroleum Reserve for the storage  
24   of up to 1 billion barrels of petroleum products shall be  
25   created pursuant to this part.”;

1                   (2) by amending subsection (b) to read as  
2 follows:

3           “(b) The Secretary, acting through the Strategic Pe-  
4 troleum Reserve Office and in accordance with this part,  
5 shall exercise authority over the development, operation,  
6 and maintenance of the Reserve”; and

7                   (3) by striking subsections (c), (d), and  
8 (e);

9                   (h) by striking section 155 (42 U.S.C. 6235);

10                  (i) in section 156(b) (42 U.S.C. 6236(b)), by  
11 striking “To implement the Early Storage Reserve  
12 Plan or the Strategic Petroleum Reserve Plan which  
13 has taken effect pursuant to section 159(a), the”  
14 and inserting “The”;

15                  (j) by striking section 157 (42 U.S.C. 6237);

16                  (k) by striking section 158 (42 U.S.C. 6238);

17                  (l) by amending the heading for section 159 (42  
18 U.S.C. 6239) to read: “Development, Operation, and  
19 Maintenance of the Reserve”;

20                  (m) in section 159 (42 U.S.C. 6239)—

21                         (1) by striking subsections (a), (b), (c),  
22 (d), and (e);

23                         (2) by amending subsection (f) to read as  
24 follows:

1       “(f) In order to develop, operate, or maintain the  
2 Strategic Petroleum Reserve, the Secretary may—

3           “(1) issue rules, regulations, or orders;

4           “(2) acquire by purchase, condemnation, or oth-  
5 erwise, land or interests in land for the location of  
6 storage and related facilities;

7           “(3) construct, purchase, lease, or otherwise ac-  
8 quire storage and related facilities;

9           “(4) use, lease, maintain, sell, or otherwise dis-  
10 pose of storage and related facilities acquired under  
11 this part, under such terms and conditions as the  
12 Secretary may deem necessary or appropriate;

13           “(5) acquire, subject to the provisions of section  
14 160, by purchase, exchange, or otherwise, petroleum  
15 products for storage in the Strategic Petroleum Re-  
16 serve;

17           “(6) store petroleum products in storage facili-  
18 ties owned and controlled by the United States or in  
19 storage facilities owned by others if those facilities  
20 are subject to audit by the United States;

21           “(7) execute any contracts necessary to develop,  
22 operate, or maintain the Strategic Petroleum Re-  
23 serve;

24           “(8) require an importer of petroleum products  
25 or refiner to acquire and to store and maintain, in

1 readily available inventories, petroleum products in  
2 the Industrial Petroleum Reserve, under section 156;

3 “(9) require the storage of petroleum products  
4 in the Industrial Petroleum Reserve, under section  
5 156, on terms that the Secretary specifies, in stor-  
6 age facilities owned and controlled by the United  
7 States or in storage facilities other than those owned  
8 by the United States if those facilities are subject to  
9 audit by the United States;

10 “(10) require the maintenance of the Industrial  
11 Petroleum Reserve;

12 “(11) bring an action, when the Secretary con-  
13 siders it necessary, in any court having jurisdiction  
14 over the proceedings, to acquire by condemnation  
15 any real or personal property, including facilities,  
16 temporary use of facilities; or other interests in land,  
17 together with any personal property located on or  
18 used with the land; and

19 “(12) to the extent provided in an Appropria-  
20 tions Act, and notwithstanding section 649(b) of the  
21 Department of Energy Organization Act (42 U.S.C.  
22 7259(b)), the Secretary is authorized to store in  
23 underutilized facilities, by lease or otherwise, petro-  
24 leum product owned by a foreign government or its  
25 representative, petroleum product stored under this

paragraph is not part of the Reserve, is not subject to part C of this title, and notwithstanding any provision of this Act, may be exported from the United States.”;

(3) in subsection (g)—

(A) by striking “implementation” and inserting “development”; and

(B) by striking “Plan”;

(4) by striking subsections (h) and (i);

(5) by amending subsection (j) to read as

follows:

“(j) When the Secretary determines that a 750,000,000 barrel inventory can reasonably be expected to be reached in the Reserve within 5 years, a plan for expansion will be submitted to the Congress.”; and

(6) by amending subsection (l) to read as follows:

“(l) During any period in which drawdown and distribution are being implemented, the Secretary may issue rules, regulations, or orders to implement the drawdown and distribution of the Strategic Petroleum Reserve in accordance with section 553 of title 5, United States Code, without regard to rulemaking requirements in section 523 of this Act, and section 501 of the Department of Energy Organization Act (42 U.S.C. 7191);



1           ~~(n) in section 160 (42 U.S.C. 6240)—~~

2                   ~~(1) in subsection (a), by striking all before~~  
 3           ~~the dash and inserting the following—~~

4           ~~“(a) To the extent funds are available under section~~  
 5   ~~167(b)(2) and (3) and for the purposes of implementing~~  
 6   ~~the Strategic Petroleum Reserve, the Secretary may ac-~~  
 7   ~~quire, place in storage, transport, or exchange”;~~

8                   ~~(2) in subsection (b), by striking “includ-~~  
 9           ~~ing the Early Storage Reserve and the Regional~~  
 10   ~~Petroleum Reserve” and paragraph (2); and~~

11                   ~~(3) by striking subsections (c), (d), (e),~~  
 12   ~~and (g);~~

13           ~~(o) in section 161 (42 U.S.C. 6241)—~~

14                   ~~(1) by striking subsections (b) and (c);~~

15                   ~~(2) by amending subsection (d)(1) to read~~  
 16   ~~as follows:~~

17           ~~“(d)(1) No drawdown and distribution of the Strate-~~  
 18   ~~gie Petroleum Reserve may be made unless the President~~  
 19   ~~has found drawdown and distribution is required by a se-~~  
 20   ~~vere energy supply interruption or by obligations of the~~  
 21   ~~United States under the international energy program.”;~~

22                   ~~(3) by amending subsection (c) to read as~~  
 23   ~~follows:~~

24           ~~“(c)(1) The Secretary shall sell any petroleum prod-~~  
 25   ~~uct withdrawn from the Strategic Petroleum Reserve at~~

1 public sale to the highest qualified bidder in the amounts;  
 2 for the period; and after a notice of sale the Secretary  
 3 considers proper; and without regard to Federal, State,  
 4 or local regulations controlling sales of petroleum prod-  
 5 ucts.

6 “(2) The Secretary may cancel in whole or in part  
 7 any offer to sell petroleum products as part of any  
 8 drawdown and distribution under this section.”; and

9 (4) in subsection (g)—

10 (A) in paragraph (1), by striking  
 11 “Distribution Plan” and inserting “dis-  
 12 tribution procedures”;

13 (B) by striking paragraphs (2) and  
 14 (6); and

15 (C) in paragraph (4), by striking  
 16 “90” and inserting “95”;

17 (p) by striking section 164 (42 U.S.C. 6244);

18 (q) by amending section 165 (42 U.S.C. 6245)

19 to read as follows—

20 “SEC. 165. The Secretary shall report annually to the  
 21 President and the Congress on actions taken to implement  
 22 this part. This report shall include—

23 “(1) the status of the physical capacity of the  
 24 Reserve and the type and quantity of petroleum in  
 25 the Reserve;

1           “(2) an estimate of the schedule and cost to  
2       complete planned equipment upgrade or capital in-  
3       vestment in the Reserve, including those carried out  
4       as part of operational maintenance or extension of  
5       life activities;

6           “(3) an identification of any life-limiting condi-  
7       tions or operational problems at any Reserve facility,  
8       and proposed remedial actions including an estimate  
9       of the schedule and cost of implementing such reme-  
10      dial actions;

11          “(4) a description of current withdrawal and  
12      distribution rates and capabilities; and an identifica-  
13      tion of any operational or other limitations on such  
14      rates and capabilities;

15          “(5) an identification of purchases of petroleum  
16      made in the preceding year and planned in the fol-  
17      lowing year, including quantity, price, and type of  
18      petroleum;

19          “(6) a summary of the actions taken to develop,  
20      operate, and maintain the Reserve;

21          “(7) a summary of the financial status and fi-  
22      nancial transactions of the Strategic Petroleum Re-  
23      serve and Strategic Petroleum Reserve Petroleum  
24      Accounts for the year;

1           ~~“(8) a summary of expenses for the year, and~~  
 2           ~~the number of Federal and contractor employees;~~

3           ~~“(9) the status of contracts for development,~~  
 4           ~~operation, maintenance, distribution, and other ac-~~  
 5           ~~tivities related to the implementation of this part;~~  
 6           ~~and~~

7           ~~“(10) any recommendations for supplemental~~  
 8           ~~legislation or policy or operational changes the Sec-~~  
 9           ~~retary considers necessary and appropriate to imple-~~  
 10          ~~ment this part.”;~~

11          ~~(r) in section 166 (42 U.S.C. 6246) by striking~~  
 12          ~~all after “appropriated” and inserting “the funds~~  
 13          ~~necessary to implement this part.”;~~

14          ~~(s) in section 167 (42 U.S.C. 6247) subsection~~  
 15          ~~(b)—~~

16                   ~~(A) by inserting “for test sales of pe-~~  
 17                   ~~troleum products from the Reserve,” after~~  
 18                   ~~“Strategic Petroleum Reserve,”; and by in-~~  
 19                   ~~serting “for” before “the drawdown”;~~

20                   ~~(B) by striking paragraph (1); and~~

21                   ~~(C) in paragraph (2), by striking~~  
 22                   ~~“after fiscal year 1982”;~~

23          ~~(t) in section 171 (42 U.S.C. 6249) by amend-~~  
 24          ~~ing subparagraph (b)(2)(B) to read as follows:~~

1           “(B) the Secretary notifies each House of  
 2           the Congress of the determination and identifies  
 3           in the notification the location, type, and owner-  
 4           ship of storage and related facilities proposed to  
 5           be included, or the volume, type, and ownership  
 6           of petroleum product proposed to be stored, in  
 7           the Reserve, and an estimate of the proposed  
 8           benefits;”;

9           (u) in section 172 (42 U.S.C. 6249a), by strik-  
 10          ing subsections (a) and (b);

11          (v) by striking section 173 (42 U.S.C. 6249b);  
 12          and

13          (w) in section 181 (42 U.S.C. 6251), by strik-  
 14          ing “June 30, 1996” each time it appears and in-  
 15          serting “September 30, 2001”.

16          SEC. 4. Title II of the Energy Policy and Conserva-  
 17          tion Act (42 U.S.C. 6211–6251) is amended—

18               (a) by striking Part A (42 U.S.C. 6261 through  
 19               6264);

20               (b) by striking “section 252(l)(1)” in section  
 21               251(e)(1) (42 U.S.C. 6271(e)(1)) and inserting  
 22               “section 252(k)(1)”;

23               (c) in section 252 (42 U.S.C. 6272)—

24                       (1) in subsections (a)(1) and (b), by strik-  
 25                       ing “allocation and information provisions of

1 the international energy program” and insert-  
 2 ing “international emergency response provi-  
 3 sions”;

4 (2) in subsection (d)(3), by striking  
 5 “known” and inserting after “circumstances”  
 6 “known at the time of approval”;

7 (3) in subsection (e)(2) by striking “shall”  
 8 and inserting “may”;

9 (4) in subsection (f)(2) by inserting “vol-  
 10 untary agreement or” after “approved”;

11 (5) by amending subsection (h) to read as  
 12 follows:

13 “(h) Section 708 of the Defense Production Act of  
 14 1950 shall not apply to any agreement or action under-  
 15 taken for the purpose of developing or carrying out—

16 “(1) the international energy program; or

17 “(2) any allocation, price control, or similar  
 18 program with respect to petroleum products under  
 19 this Act.”;

20 (6) in subsection (i) by inserting “annu-  
 21 ally, or” after “least” and by inserting “during  
 22 an international energy supply emergency”  
 23 after “months”;

24 (7) in subsection (k) by amending para-  
 25 graph (2) to read as follows:

1           “(2) The term ‘international emergency re-  
2       sponse provisions’ means—

3                   “(A) the provisions of the international en-  
4       ergy program which relate to international allo-  
5       cation of petroleum products and to the infor-  
6       mation system provided in the program; and

7                   “(B) the emergency response measures  
8       adopted by the Governing Board of the Inter-  
9       national Energy Agency (including the July 11,  
10      1984, decision by the Governing Board on  
11      ‘Stocks and Supply Disruptions’) for—

12                   “(i) the coordinated drawdown of  
13      stocks of petroleum products held or con-  
14      trolled by governments; and

15                   “(ii) complementary actions taken by  
16      governments during an existing or impend-  
17      ing international oil supply disruption”;  
18      and

19           (8) by amending subsection (4) to read as  
20      follows:

21           “(1) The antitrust defense under subsection (f) shall  
22      not extend to the international allocation of petroleum  
23      products unless allocation is required by chapters III and  
24      IV of the international energy program during an inter-  
25      national energy supply emergency.”;

1 (d) by adding at the end of section 256(h),  
 2 “There are authorized to be appropriated for fiscal  
 3 years 1996 through 2001, such sums as may be nec-  
 4 essary.”;

5 (e) by striking Part C (42 U.S.C. 271 through  
 6 272); and

7 (f) in section 281 (42 U.S.C. 6285), by striking  
 8 “June 30, 1996” each time it appears and inserting  
 9 “September 30, 2001”.

10 SEC. 5. (a) Title III of the Energy Policy and Con-  
 11 servation Act (42 U.S.C. 6291–6327, 6361–6374d) is  
 12 amended—

13 (1) in section 365(f) (42 U.S.C. 6325(f)) by  
 14 amending paragraph (1) to read as follows:

15 “(1) Except as provided in paragraph (2), for  
 16 the purpose of carrying out this part, there are au-  
 17 thorized to be appropriated \$24,650 million for fis-  
 18 cal year 1996 and for fiscal years 1997 through  
 19 2001, such sums as may be necessary.”; and

20 (2) section 397 (42 U.S.C. 6371f) is amended  
 21 to read as follows: “For the purpose of carrying out  
 22 this part, there are authorized \$26,849 million to be  
 23 appropriated for fiscal year 1996 and for fiscal years  
 24 1997 through 2001, such sums as may be nec-  
 25 essary.”.



1       (b) In section 400BB(b) (42 U.S.C. 6374a(b)) by  
2 amending paragraph (1) to read as follows:

3           “(1) There are authorized to be appropriated to  
4 the Secretary for carrying out this section such sums  
5 as may be necessary for fiscal years 1996 through  
6 2001, to remain available until expended.”.

7       SEC. 6. Title V of the Energy Policy and Conserva-  
8 tion Act (42 U.S.C. 6381–6422) is amended—

9           (1) by striking section 507 (42 U.S.C. 6385);  
10 and

11          (2) by striking section 522 (42 U.S.C. 6392).  
12 That this Act may be cited as the “Energy Policy and Con-  
13 servation Act Amendment Act”.

14       SEC. 2. Section 2 of the Energy Policy and Conserva-  
15 tion Act (42 U.S.C. 6201) is amended—

16          (1) in paragraph (1) by striking “standby” and  
17 “, subject to congressional review, to impose ration-  
18 ing, to reduce demand for energy through the imple-  
19 mentation of energy conservation plans, and”; and

20          (2) by striking paragraph (3).

21       SEC. 3. Title I of the Energy Policy and Conservation  
22 Act (42 U.S.C. 6211–6251) is amended—

23          (a) in section 105 (42 U.S.C. 6213)—

24                  (1) by amending subsection (a) to read as  
25 follows—

1       “(a) *The Secretary of the Interior shall permit the bid-*  
2 *ding for any right to develop crude oil, natural gas, and*  
3 *natural gas liquids on any lands located on the Outer Con-*  
4 *tinental Shelf by a person, when more than one major oil*  
5 *company, more than one affiliate of a major oil company,*  
6 *or a major oil company and any affiliate of a major oil*  
7 *company, has or have a significant ownership interest in*  
8 *that person, unless the Secretary determines prior to any*  
9 *lease sale that this bidding would adversely affect competi-*  
10 *tion or the receipt of fair market value.”; and*

11               (2) *by striking subsections (c) and (e);*

12               (b) *by striking section 106 (42 U.S.C. 6214);*

13               (c) *in section 151 (42 U.S.C. 6231)—*

14                     (1) *in subsection (a) by striking “limited”*  
15 *and “short-term”; and*

16                     (2) *by amending subsection (b) to read as*  
17 *follows:*

18       “(b) *It is the policy of the United States to provide*  
19 *for the creation of a Strategic Petroleum Reserve for the*  
20 *storage of up to 1 billion barrels of petroleum products to*  
21 *reduce the impact of disruptions in supplies of petroleum*  
22 *products or to carry out obligations of the United States*  
23 *under the international energy program.”;*

24               (d) *in section 152 (42 U.S.C. 6232)—*

25                     (1) *by striking paragraphs (1) and (7), and*

1                   (2) in paragraph (11) by striking “, the  
2                   *Early Storage Reserve, and the Regional Petro-*  
3                   *leum Reserve*”;

4                   (e) by striking section 153 (42 U.S.C. 6233);

5                   (f) in section 154 (42 U.S.C. 6234)—

6                   (1) by amending subsection (a) to read as  
7                   *follows:*

8                   “(a) *A Strategic Petroleum Reserve for the storage of*  
9                   *up to 1 billion barrels of petroleum products shall be created*  
10                  *pursuant to this part.*”;

11                  (2) by amending subsection (b) to read as  
12                  *follows:*

13                  “(b) *The Secretary, acting through the Strategic Petro-*  
14                  *leum Reserve Office and in accordance with this part, shall*  
15                  *exercise authority over the development, operation, and*  
16                  *maintenance of the Reserve.*”;

17                  (3) by amending (c) to read as follows:

18                  “(c) *The Secretary shall prepare a statement of policy*  
19                  *on Strategic Petroleum Reserve development, maintenance*  
20                  *and drawdown. The statement of policy shall evaluate the*  
21                  *effect of sales of petroleum from the Strategic Petroleum Re-*  
22                  *serve under authorities other than those provided by this*  
23                  *Act on the ability of the United States to fulfill its obliga-*  
24                  *tions under the international energy program. The state-*  
25                  *ment of policy shall evaluate the effectiveness of the Strate-*

1 *gic Petroleum Reserve at reducing the impact of severe en-*  
 2 *ergy supply interruptions, in light of existing quantities of*  
 3 *petroleum in the Strategic Petroleum Reserve, and the like-*  
 4 *lihood of purchases of additional petroleum for storage. The*  
 5 *statement of policy shall set forth alternative strategies for*  
 6 *drawdown and the criteria to be employed at the time of*  
 7 *drawdown to select among such strategies. The statement*  
 8 *of policy shall be published in the Federal Register and be*  
 9 *subject to public comment, and may be prepared without*  
 10 *regard to the requirements of section 553 of title 5, United*  
 11 *States Code, section 501 of the Department of Energy Orga-*  
 12 *nization Act (42 U.S.C. 7191), and section 523 of this*  
 13 *Act.”; and*

14 *(4) by striking subsections (d), and (e);*  
 15 *(g) by striking section 155 (42 U.S.C. 6235);*  
 16 *(h) in section 156(b) (42 U.S.C. 6236(b)), by*  
 17 *striking “To implement the Early Storage Reserve*  
 18 *Plan or the Strategic Petroleum Reserve Plan which*  
 19 *has taken effect pursuant to section 159(a), the” and*  
 20 *inserting “The”;*

21 *(i) by striking section 157 (42 U.S.C. 6237);*  
 22 *(j) by striking section 158 (42 U.S.C. 6238);*  
 23 *(k) by amending the heading for section 159 (42*  
 24 *U.S.C. 6239) to read, “Development, Operation, and*  
 25 *Maintenance of the Reserve”;*

1           *(l) in section 159 (42 U.S.C. 6239)—*

2                     *(1) by striking subsections (a), (b), (c), (d),*  
3                     *and (e);*

4                     *(2) by amending subsection (f) to read as*  
5                     *follows:*

6           *“(f) In order to develop, operate, or maintain the Stra-*  
7           *tegic Petroleum Reserve, the Secretary may:*

8                     *“(1) issue rules, regulations, or orders;*

9                     *“(2) acquire by purchase, condemnation, or oth-*  
10                    *erwise, land or interests in land for the location of*  
11                    *storage and related facilities;*

12                    *“(3) construct, purchase, lease, or otherwise ac-*  
13                    *quire storage and related facilities;*

14                    *“(4) use, lease, maintain, sell, or otherwise dis-*  
15                    *pose of storage and related facilities acquired under*  
16                    *this part, under such terms and conditions as the Sec-*  
17                    *retary may deem necessary or appropriate;*

18                    *“(5) acquire, subject to the provisions of section*  
19                    *160, by purchase, exchange, or otherwise, petroleum*  
20                    *products for storage in the Strategic Petroleum Re-*  
21                    *serve;*

22                    *“(6) store petroleum products in storage facilities*  
23                    *owned and controlled by the United States or in stor-*  
24                    *age facilities owned by others if those facilities are*  
25                    *subject to audit by the United States;*

1           “(7) execute any contracts necessary to develop,  
2           operate, or maintain the Strategic Petroleum Reserve;

3           “(8) require an importer of petroleum products  
4           or refiner to acquire and to store and maintain, in  
5           readily available inventories, petroleum products in  
6           the Industrial Petroleum Reserve, under section 156;

7           “(9) require the storage of petroleum products in  
8           the Industrial Petroleum Reserve, under section 156,  
9           on terms that the Secretary specifies, in storage facili-  
10          ties owned and controlled by the United States or in  
11          storage facilities other than those owned by the United  
12          States is those facilities are subject to audit by the  
13          United States;

14          “(10) require the maintenance of the Industrial  
15          Petroleum Reserve;

16          “(11) bring an action, when the Secretary con-  
17          siders it necessary, in any court having jurisdiction  
18          over the proceedings, to acquire by condemnation any  
19          real or personal property, including facilities, tem-  
20          porary use of facilities, or other interests in land, to-  
21          gether with any personal property located on or used  
22          with the land; and

23          “(12) to the extent provided in an Appropria-  
24          tions Act, and notwithstanding section 649(b) of the  
25          Department of Energy Organization Act (42 U.S.C.

1       7259(b)), *the Secretary is authorized to store in*  
 2       *underutilized SPR facilities, by lease or otherwise, pe-*  
 3       *troleum product owned by a foreign government or its*  
 4       *representative; petroleum product stored under this*  
 5       *paragraph is not part of the Reserve, is not subject*  
 6       *to part C of this title, and notwithstanding any pro-*  
 7       *vision of this Act, may be exported from the United*  
 8       *States.”;*

9               (3) *in subsection (g)—*

10                   (A) *by striking “implementation” and*  
 11                   *inserting “development”; and*

12                   (B) *by striking “Plan”;*

13               (4) *by striking subsections (h) and (i);*

14               (5) *by amending subsection (j) to read as*  
 15       *follows:*

16       “(j) *When the Secretary determines that a 680,000,000*  
 17       *barrel inventory can reasonably be expected to be reached*  
 18       *in the Reserve within 5 years, a plan for expansion will*  
 19       *be submitted to the Congress.”; and*

20               (6) *by amending subsection (l) to read as*  
 21       *follows:*

22       “(l) *During any period in which drawdown and dis-*  
 23       *tribution are being implemented, the Secretary may issue*  
 24       *rules, regulations, or orders to implement the drawdown*  
 25       *and distribution of the Strategic Petroleum Reserve in ac-*

1 *cordance with section 523 of this Act, without regard to*  
 2 *rulemaking requirements in section 553 of title 5, United*  
 3 *States Code, and section 501 of the Department of Energy*  
 4 *Organization Act (42 U.S.C. 7191),”;*

5 *(m) in section 160 (42 U.S.C. 6240)—*

6 *(1) in subsection (a), by striking all before*  
 7 *the dash and inserting the following—*

8 *“(a) To the extent funds are available under section*  
 9 *167(b)(2) and (3) and for the purposes of implementing the*  
 10 *Strategic Petroleum Reserve, the Secretary may acquire,*  
 11 *place in storage, transport, or exchange”;*

12 *(2) in subsection (b), by striking “including*  
 13 *the Early Storage Reserve and the Regional Pe-*  
 14 *troleum Reserve” and paragraph (2); and*

15 *(3) by striking subsections (c), (d), (e), and*  
 16 *(g);*

17 *(n) in section 161 (42 U.S.C. 6241)—*

18 *(1) by striking subsections (b) and (c);*

19 *(2) by amending subsection (d)(1) to read*  
 20 *as follows:*

21 *“(d)(1) No drawdown and distribution of the Strategic*  
 22 *Petroleum Reserve may be made unless the President has*  
 23 *found drawdown and distribution is required by a severe*  
 24 *energy supply interruption or by obligations of the United*  
 25 *States under the international energy program.”;*



1                   (3) by amending subsection (e) to read as  
2                   *follows:*

3           “(e)(1) *The Secretary shall sell any petroleum product*  
4 *withdrawn from the Strategic Petroleum Reserve at public*  
5 *sale to the highest qualified bidder in the amounts, for the*  
6 *period, and after a notice of sale the Secretary considers*  
7 *proper, and without regard to Federal, State, or local regu-*  
8 *lations controlling sales of petroleum products.*

9           “(2) *The Secretary may cancel in whole or in part*  
10 *any offer to sell petroleum products as part of any*  
11 *drawdown and distribution under this Section.”; and*

12                   (4) in subsection (g)—

13                           (A) in paragraph (l), by striking “Dis-  
14                           tribution Plan” and inserting “distribution  
15                           procedures”;

16                           (B) by striking paragraphs (2) and  
17                           (6); and

18                           (C) in paragraph (4), by striking “90”  
19                           in inserting “95”;

20                   (o) by striking section 164 (42 U.S.C. 6244);

21                   (p) by amending section 165 (42 U.S.C. 6245) to  
22                   read as follows—

23           “SEC. 165. *The Secretary shall report annually to the*  
24 *President and the Congress on actions taken to implement*  
25 *this part. This report shall include—*

1           “(1) the status of the physical capacity of the Re-  
2       serve and the type and quantity of petroleum in the  
3       Reserve;

4           “(2) an estimate of the schedule and cost to com-  
5       plete planned equipment upgrade or capital invest-  
6       ment in the Reserve, including those carried out as  
7       part of operational maintenance or extension of life  
8       activities;

9           “(3) an identification of any life-limiting condi-  
10      tions or operational problems at any Reserve facility,  
11      and proposed remedial actions including an estimate  
12      of the schedule and cost of implementing such reme-  
13      dial actions;

14          “(4) a description of current withdrawal and  
15      distribution rates and capabilities, and an identifica-  
16      tion of any operational or other limitations on such  
17      rates and capabilities;

18          “(5) an identification of purchases of petroleum  
19      made in the preceding year and planned in the fol-  
20      lowing year, including quantity, price, and type of  
21      petroleum;

22          “(6) a summary of the actions taken to develop,  
23      operate, and maintain the Reserve;

24          “(7) a summary of the financial status and fi-  
25      nancial transactions of the Strategic Petroleum Re-

1 *serve and Strategic Petroleum Reserve Petroleum Ac-*  
 2 *counts for the year;*

3 *“(8) a summary of expenses for the year, and the*  
 4 *number of Federal and contractor employees;*

5 *“(9) the status of contracts for development, op-*  
 6 *eration, maintenance, distribution, and other activi-*  
 7 *ties related to the implementation of this part; and*

8 *“(10) any recommendations for supplemental*  
 9 *legislation or policy or operational changes the Sec-*  
 10 *retary considers necessary and appropriate to imple-*  
 11 *ment this part.”;*

12 *(q) in section 166 (42 U.S.C. 6246) by striking*  
 13 *all after “appropriated” and inserting “the funds*  
 14 *necessary to implement this part.”;*

15 *(r) in section 167 (42 U.S.C. 6247)—*

16 *(1) in subsection (b)—*

17 *(A) by inserting “for test sales of petro-*  
 18 *leum products from the Reserve,” after*  
 19 *“Strategic Petroleum Reserve,” and by in-*  
 20 *serting “for” before “the drawdown”;*

21 *(B) by striking paragraph (1); and*

22 *(C) in paragraph (2), by striking*  
 23 *“after fiscal year 1982”;*

24 *(s) in section 171 (42 U.S.C. 6249)—*

1                   (1) by amending subparagraph (b)(2)(B) to  
2                   read as follows:

3                   “(B) the Secretary notifies each House of  
4                   the Congress of the determination and identifies  
5                   in the notification the location, type, and  
6                   ownership of storage and related facilities pro-  
7                   posed to be included, or the volume, type, and  
8                   ownership of petroleum product proposed to be  
9                   stored, in the Reserve, and an estimate of the  
10                  proposed benefits.”;

11                  (t) in section 172 (42 U.S.C. 6249a), by striking  
12                  subsections (a) and (b);

13                  (u) by striking section 173 (42 U.S.C. 6249b);  
14                  and

15                  (v) in section 181 (42 U.S.C. 6251), by striking  
16                  “June 30, 1996” each time it appears and inserting  
17                  “September 30, 2001”.

18                  SEC. 4. Title II of the Energy Policy and Conservation  
19                  Act (42 U.S.C. 6211–6251) is amended—

20                  (a) by striking Part A (42 U.S.C. 6261 through  
21                  6264);

22                  (b) by striking “section 252(l)(1)” in section  
23                  251(e)(1) (42 U.S.C. 6271(e)(1)) and inserting “sec-  
24                  tion 252(k)(1)”;

25                  (c) in section 252 (42 U.S.C. 6272)—

1                   (1) in subsections (a)(1) and (b), by strik-  
 2                   ing “allocation and information provisions of  
 3                   the international energy program” and inserting  
 4                   “international emergency response provisions”;

5                   (2) in subsection (d)(3), by striking  
 6                   “known” and inserting after “circumstances”  
 7                   “known at the time of approval”;

8                   (3) in subsection (e)(2) by striking “shall”  
 9                   and inserting “may”;

10                  (4) in subsection (f)(2) by inserting “vol-  
 11                  untary agreement or” after “approved”;

12                  (5) by amending subsection (h) to read as  
 13                  follows—

14                  “(h) Section 708 of the Defense Production Act of 1950  
 15                  shall not apply to any agreement or action undertaken for  
 16                  the purpose of developing or carrying out—

17                         “(1) the international energy program, or

18                         “(2) any allocation, price control, or similar  
 19                         program with respect to petroleum products under  
 20                         this Act.”;

21                         (6) in subsection (i) by inserting “annually,  
 22                         or” after “least” and by inserting “during an  
 23                         international energy supply emergency” after  
 24                         “months”;

1                   (7) *in subsection (k) by amending para-*  
 2                   *graph (2) to read as follows—*

3                   “(2) *The term “international emergency response*  
 4                   *provisions” means—*

5                   “(A) *the provisions of the international en-*  
 6                   *ergy program which relate to international allo-*  
 7                   *cation of petroleum products and to the informa-*  
 8                   *tion system provided in the program, and*

9                   “(B) *the emergency response measures*  
 10                  *adopted by the Governing Board of the Inter-*  
 11                  *national Energy Agency (including the July 11,*  
 12                  *1984, decision by the Governing Board on*  
 13                  *“Stocks and Supply Disruptions”) for—*

14                  “(i) *the coordinated drawdown of*  
 15                  *stocks of petroleum products held or con-*  
 16                  *trolled by governments; and*

17                  “(ii) *complementary actions taken by*  
 18                  *governments during an existing or impend-*  
 19                  *ing international oil supply disruption”;*  
 20                  *and*

21                  (8) *by amending subsection (l) to read as*  
 22                  *follows—*

23                  “(l) *The antitrust defense under subsection (f) shall not*  
 24                  *extend to the international allocation of petroleum products*  
 25                  *unless allocation is required by chapters III and IV of the*

1 *international energy program during an international en-*  
 2 *ergy supply emergency.”;*

3 *(d) by adding at the end of section 256(h),*  
 4 *“There are authorized to be appropriated \$5,000,000*  
 5 *for each of the fiscal years 1996 through 1999.”*

6 *(e) by striking Part C (42 U.S.C. 6281 through*  
 7 *6282); and*

8 *(f) in section 281 (42 U.S.C. 6285), be striking*  
 9 *“June 30, 1996” each time it appears and inserting*  
 10 *“September 30, 2001”.*

11 *SEC. 5. (a) Title III of the Energy Policy and Con-*  
 12 *servation Act (42 U.S.C. 6291–6327, 6361–6374d) is*  
 13 *amended—*

14 *(1) in section 365(f) (42 U.S.C. 6325(f)) by*  
 15 *amending paragraph (1) to read as follows:*

16 *“(1) Except as provided in paragraph (2), for*  
 17 *the purpose of carrying out this part, there are au-*  
 18 *thorized to be appropriated \$26,500,000 for fiscal*  
 19 *year 1996 and for fiscal years 1997 through 2001,*  
 20 *such sums as may be necessary.”; and*

21 *(2) section 397 (42 U.S.C. 6371f) is amended to*  
 22 *read as follows: “For the purpose of carrying out this*  
 23 *part, there are authorized \$29,000,000 to be appro-*  
 24 *priated for fiscal year 1996 and for fiscal years 1997*  
 25 *through 2001, such sums as may be necessary.”.*

1       (b) in section 400BB(b) (42 U.S.C. 6374a(b)) by  
2 amending paragraph (1) to read as follows:

3           “(1) There are authorized to be appropriated to  
4 the Secretary for carrying out this section such sums  
5 as may be necessary for fiscal years 1996 through  
6 2001, to remain available until expended.”

7       SEC. 6. Title V of the Energy Policy and Conservation  
8 Act (42 U.S.C. 6381–6422) is amended—

9           (1) by striking section 507 (42 U.S.C. 6385),  
10 and

11          (2) by striking section 522 (42 U.S.C. 6392).

12       SEC. 7. (a) Section 161 of the Energy Policy and Con-  
13 servation Act (42 U.S.C. 6241) is amended by adding at  
14 the end the following new subsection:

15           “(j)(1) With respect to each offering of a quantity of  
16 petroleum product during a drawdown of the Strategic Pe-  
17 troleum Reserve:

18                   “(A) the State of Hawaii, in addition to  
19 having the opportunity to submit a competitive  
20 bid, may—

21                           “(i) submit a binding offer, and shall  
22 on submission of the offer, be entitled to  
23 purchase a category of petroleum product  
24 specified in a notice of sale at a price equal  
25 to the volumetrically weighted average of the



1            *successful bids made for the remaining*  
2            *quantity of petroleum product within the*  
3            *category that is the subject of the offering;*  
4            *and*

5            *“(ii) submit one or more alternative of-*  
6            *fers, for other categories of petroleum prod-*  
7            *uct, that will be binding in the event that*  
8            *no price competitive contract is awarded for*  
9            *the category of petroleum product on which*  
10           *a binding offer is submitted under clause*  
11           *(i); and*

12           *“(B) at the request of the Governor of the*  
13           *State of Hawaii, petroleum product purchased*  
14           *by the State of Hawaii at a competitive sale or*  
15           *through a binding offer shall have first pref-*  
16           *erence in scheduling for lifting.*

17           *“(2)(A) In administering this subsection, and*  
18           *with respect to each offering, the Secretary may im-*  
19           *pose the limitation described in subparagraph (B) or*  
20           *(C) that results in the purchase of the lesser quantity*  
21           *of petroleum product.*

22           *“(B) The Secretary may limit the quantity of*  
23           *petroleum product that the State of Hawaii may pur-*  
24           *chase through a binding offer at any one offering to*  
25           *one-twelfth of the total quantity of imports of petro-*

1        *leum product brought into the State during the pre-*  
 2        *vious year (or other period determined by the Sec-*  
 3        *retary to be representative).*

4                *“(C) The Secretary may limit the quantity that*  
 5        *may be purchased through binding offers at any one*  
 6        *offering to 3 percent of the offering.*

7                *“(3) Notwithstanding any limitation imposed*  
 8        *under paragraph (2), in administering this sub-*  
 9        *section, and with respect to each offering, the Sec-*  
 10        *retary shall, at the request of the Governor of the*  
 11        *State of Hawaii, or an eligible entity certified under*  
 12        *paragraph (6), adjust the quantity to be sold to the*  
 13        *State of Hawaii as follows:*

14                *“(A) The Secretary shall adjust upward to*  
 15        *the next whole number increment of a full tanker*  
 16        *load if the quantity to be sold is—*

17                        *“(i) less than one full tanker load; or*

18                        *“(ii) greater than or equal to 50 per-*  
 19        *cent of a full tanker load more than a whole*  
 20        *number increment of a full tanker load.*

21                *“(B) The Secretary shall adjust downward*  
 22        *to the next whole number increment of a full*  
 23        *tanker load if the quantity to be sold is less than*  
 24        *50 percent of a full tanker load more than a*  
 25        *whole number increment of a full tanker load.*

1           “(4) *The State of Hawaii may enter into an ex-*  
2           *change or a processing agreement that requires deliv-*  
3           *ery to other locations, so long as petroleum product*  
4           *of similar value or quantity is delivered to the State*  
5           *of Hawaii.*

6           “(5) *Except as otherwise provided in this Act,*  
7           *the Secretary may require the State of Hawaii to*  
8           *comply with the standard sales provisions applicable*  
9           *to purchasers of petroleum product at competitive*  
10          *sales.*

11          “(6)(A) *Notwithstanding the foregoing, and sub-*  
12          *ject to subparagraphs (B) and (C), if the Governor of*  
13          *the State of Hawaii certifies to the Secretary that the*  
14          *State has entered into an agreement with an eligible*  
15          *entity to effectuate the purposes of this Act, such eligi-*  
16          *ble entity may act on behalf of the State of Hawaii*  
17          *for purposes of this subsection.*

18          “(B) *The Governor of the State of Hawaii shall*  
19          *not certify more than one eligible entity under this*  
20          *paragraph for each notice of sale.*

21          “(C) *If the Secretary has notified the Governor*  
22          *of the State of Hawaii that a company has been*  
23          *barred from bidding (either prior to, or at the time*  
24          *that a notice of sale is issued), the Governor shall not*  
25          *certify such company under the paragraph.*

1           “(7) *At the request of the governor of an insular*  
2           *area, the Secretary shall, for a period not to exceed*  
3           *180 days following a drawdown of the Strategic Pe-*  
4           *troleum Reserve, assist the insular area in its efforts*  
5           *to maintain adequate supplies of petroleum products*  
6           *from traditional and non-traditional suppliers.*

7           “(8) *As used in this subsection—*

8                   “(A) *the term ‘binding offer’ means a bid*  
9                   *submitted by the State of Hawaii for an assured*  
10                  *award of a specific quantity of petroleum prod-*  
11                  *uct, with a price to be calculated pursuant to*  
12                  *this Act, that obligates the offeror to take title to*  
13                  *the petroleum product without further negotia-*  
14                  *tion or recourse to withdraw the offer;*

15                  “(B) *the term ‘category of petroleum prod-*  
16                  *uct’ means a master line item within a notice of*  
17                  *sale;*

18                  “(C) *the term ‘eligible entity’ means an en-*  
19                  *tity that owns or controls a refinery that is lo-*  
20                  *cated within the State of Hawaii;*

21                  “(D) *the term ‘full tanker load’ means a*  
22                  *tanker of approximately 700,000 barrels of ca-*  
23                  *capacity, or such lesser tanker capacity as may be*  
24                  *designated by the State of Hawaii;*

1           “(E) the term ‘insular area’ means Guam,  
 2           American Samoa, the commonwealth of the  
 3           Northern Mariana Islands, the Virgin Islands,  
 4           Puerto Rico, and the freely associated states of  
 5           the Republic of Palau, Federated States of Mi-  
 6           cronesia, and Republic of the Marshall Islands;

7           “(F) the term ‘offering’ means a solicitation  
 8           for bids for a quantity or quantities of petroleum  
 9           product from the Strategic Petroleum Reserve as  
 10          specified in the notice of sale; and

11          “(G) the term ‘notice of sale’ means the doc-  
 12          ument that announces—

13               “(i) the sale of Strategic Petroleum Re-  
 14               serve products;

15               “(ii) the quantity, characteristics, and  
 16               location of the petroleum product being sold;

17               “(iii) the delivery period for the sale;  
 18               and

19               “(iv) the procedures for submitting of-  
 20               fers.”.

21          (b) The amendment made by subsection (a) shall take  
 22          effect on the date that is 180 days after the date of enact-  
 23          ment of this Act or the date that final regulations are pro-  
 24          mulgated pursuant to section 3, whichever is sooner.

1       (c) *The Secretary shall promulgate such regulations as*  
2 *are necessary to carry out the amendment made by sub-*  
3 *section (a).*

4       (d) *Regulations issued to carry out this section, and*  
5 *the amendment made by subsection (a), shall not be subject*  
6 *to—*

7               (1) *section 523 of the Energy Policy and Con-*  
8 *servation Act (42 U.S.C. 6393); or*

9               (2) *section 501 of the Department of Energy Or-*  
10 *ganization Act (42 U.S.C. 7191).*